

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RICHARD LEWIS,

Plaintiff,

v.

ORDER

MICHAEL STEPHEN, THEODORE ANDERSON,
BYRAN GERRY and ANDREW MILLER¹,

15-cv-51-jdp

Defendant.

I granted plaintiff Richard Lewis leave to proceed against Columbia Correctional Institution officers, Michael Stephen, Theodore Anderson, Byran Gerry, and Andrew Miller on a claim that defendants subjected plaintiff to an improper strip search in violation of his Fourth and Eighth Amendment rights. Dkt. 5. On October 9, 2015, the Wisconsin Department of Justice declined to accept service of process on behalf of defendant Miller because it was unable to properly identify him. In an order entered on December 31, 2015, the court noted that Andrew Miller will be treated like a Doe defendant, and it set deadlines for plaintiff to serve discovery requests and file an amended complaint with the correct identity of this defendant. Dkt. 17. The court also told plaintiff that if he did not file an amended complaint with the identity of Doe defendant “Andrew Miller” by February 26, 2016, then the court could dismiss his claims against this party. It is now well past plaintiff’s February 26 deadline, and he has not filed an amended complaint or otherwise responded to the court’s order. Thus, Doe defendant Andrew Miller will be dismissed without prejudice,

¹ I have corrected the caption to accurately reflect defendants’ names as listed in their answer. Dkt. 13.

which means that plaintiff may refile his claim against this defendant at a later time, so long as he files it before the statute of limitations has run.

ORDER

IT IS ORDERED that John Doe defendant, Andrew Miller, is DISMISSED from this case without prejudice.

Entered April 18, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge